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OFFICE OF PETITIONS

In re Application of :
Nam Ngo et al. :
Application No. 10/776,694 : DECISION ON RENEWED
Filed: February 12, 2004 : PETITION UNDER 37 C.F.R.
Title: DEVICES AND METHODS : \$ 1.137(B)
FOR THE SYNTHESIS OF NUCLEIC :
ACIDS :

This is a decision on the renewed petition filed July 30, 2007, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application, mailed May 17, 2004, which set a shortened statutory period for reply of two months. The notice indicated that the basic filing fee, a properly executed oath or declaration along with the surcharge associated with the late submission of the same would be required. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on July 18, 2004.

¹ A grantable petition pursuant to 37 C.F.R. 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition was filed on December 12, 2005, and was dismissed via the mailing of a decision on June 16, 2006, for failure to include an acceptable declaration.

With this renewed petition, Petitioner has submitted another declaration along with an Application Data Sheet (ADS).

The **declaration cannot be accepted**, as it fails to comply with 37 C.F.R. § 1.63. The declaration contains non-initialed and non-dated changes on the second page of the same².

As such, this renewed petition under 37 C.F.R. § 1.137(b) is **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. § 1.137(b)," and must include a newly executed declaration. This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner has further submitted a **Power of Attorney that cannot be entered**, as it has been executed by only one of the three joint inventors³.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail⁴, hand-delivery⁵, or facsimile⁶.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence

2 See 37 C.F.R. § 1.52(c)(1) and MPEP § 605.04(a).

3 See MPEP § 402.10.

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

6 (571) 273-8300- please note this is a central facsimile number.

Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay⁷. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay was intentional, Petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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⁷ See 37 CFR 10.18(b); cf. Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).